THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24767 of 2005

O r d e r:

Respondent No.1 is a Conductor with the petitioner-APSRTC. On the ground that he committed certain cash and ticket irregularities, an enquiry was conducted, and based on the enquiry report, which held the charges proved, respondent No.1 was removed from service vide proceedings dated 24.09.1988 of the petitioner. Assailing the said proceedings, respondent No.1 raised an industrial dispute in I.D. No. 269 of 1994, and the Labour Court, vide award dated 30.09.1995, directed reinstatement of respondent No.1 into service without backwages, but with continuity of service. Thereafter, respondent No.1 filed a petition in M.P. No. 121 of 2000, and the Labour Court, vide orders dated 20.07.2005, impugned in this writ petition, directed the petitioner to fix the pay of respondent No.1 by releasing the notional increments for the period from the date of removal till the date of his reinstatement into service, and directed the petitioner to pay the arrears of pay within two months, while posting the M.P. to another date.

Heard the learned Standing Counsel for the petitioner-APSRTC and the learned counsel for respondent No.1.

The learned Standing Counsel appearing on behalf of the petitioner submitted that the Labour Court vide award dated 30.09.1995, while allowing the I.D. filed by the petitioner in I.D.
No. 269 of 1994, merely directed the petitioner to reinstate respondent No.1 into service with continuity of service, but without backwages, and having regard to the Circulars dated 18.12.1981 and 30.09.1998 and in the absence of any specific direction by the Labour Court directing payment of backwages to respondent No.1, the Labour Court fell in error in entertaining the M.P., and directing the petitioner to pay backwages to respondent No.1, pending its disposal, and more so having regard to the judgment of the apex Court in **A.P. SRTC v. Abdul Kareem**.

In pursuance of the order of this Court, the learned Standing Counsel states

that he had taken notice to respondent No.1. To verify whether notice was served on respondent No.1 or not, I had called upon the Standing Counsel to produce the record. The record produced by the Standing Counsel, particularly the postal acknowledgement, shows that the notice dated 28.11.2005 sent by the Standing Counsel for the petitioner by registered post, was served on respondent No.1 on 16.12.2005 in that it was received by the wife of respondent No.1. However, despite service of notice, respondent No.1 neither entered his appearance, nor is there any representation made on his behalf. In the absence of any appearance put up by respondent No.1 to defend the case, this Court has no other option except to proceed with the matter *ex parte*.

The Labour Court, vide award dated 24.09.1988, passed in I.D. No. 269 of 1994, merely directed reinstatement of respondent No.1 into service with continuity of service and not backwages. Inasmuch as the Labour Court while directing reinstatement respondent No.1 into service has not awarded any consequential benefits, except continuity of service, the Labour Court could not have allowed the M.P. filed by respondent No.1 praying release of notional increments, and having regard to the judgment of the apex Court in **APSRTC v. Abdul Kareem**, the order passed by the Labour Court, impugned in the writ petition, which directed release of notional increments to respondent No.1, pending disposal of M.P., cannot be sustained, and it is accordingly set aside, and consequently the M.P. on the file of the Labour Court stands dismissed, if not already disposed of.

Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J.

Date: 25th April, 2006.

KSR